

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 4491 of 2003

Between:

C.R.Srinivas, S/o.C.Ramaswamy
H.No.44, SBI Colony, 1st venture, New Bakaram,
Gandhinagar, Hyderabad - 500 080

..... PETITIONER

AND

- 1 Osmania University rep.by its Registrar,
Hyderabad - 500 007.
- 2 Manpower Development College, West Marredpally,
Secunderabad - 500 026.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, declaring the action of the respondents in not permitting the petitioner to appear for the MCA backlog examinations i.e., IIIrd year Ist Semester ICG and Programming Languages with Optional E-Commerce Data Ware Housing, Parallel Programming, Ist year I semester MFCS and Elementary Maths and Ist year II semester COAL and Graph Theory exam as illegal, unconstitutional and violative of Art.14, 16 and 21 of Constitution of India and A.P. Universities Act, 1991 and rules made thereunder and consequently direct the respondents to permit the petitioner to appear and write the MCA backlog examinations i.e., IIIrd year Ist Semester ICG and Programming Languages with Optional E-Commerce Data Ware Housing, Parallel Programming, Ist year I semester MFCS and Elementary Maths and Ist year II semester COAL and Graph Theory exam by accepting the demand drafts bearing Nos.747500, 747501 and 747502 for Rs.1020/- towards fees etc.

Counsel for the Petitioner : MR.K.RAMAKANTH REDDY

Counsel for Respondent No.1 : MR.DEEPAK BHATTACHARJEE, SC

Counsel for Respondent No.2 : Notice sent.

The Court made the following :

ORDER :

The petitioner joined the M.C.A. course in second respondent College during the academic year 1995-96. He completed the 3 Year course, but he could not get his Degree as he had three backlog papers yet to get through. The petitioner, thereafter approached first respondent to permit him to appear for the backlog examinations, in vain. The petitioner contends that there is no rule prohibiting a student of M.C.A. from appearing the examinations to complete the backlog papers. Therefore, he filed the writ petition seeking a declaration that the action of the respondents in not permitting the petitioner to appear for the M.C.A. backlog examinations of 3 Year course, is illegal and unconstitutional. He also seeks a consequential direction to the respondents to permit him to appear for the backlog examinations of the III Year First semester ICG and Programming Languages with optional : E-Commerce Data Ware Housing, Parallel Programming, Ist Year I semester MFCS and Elementary Maths and I Year II semester COAL and Graph Theory exam.

The writ petition was initially listed before this Court on 13-3-2003 and the learned standing counsel for Osmania University took time for getting instructions. This Court also passed interim orders on the same day directing first respondent to permit the petitioner to write examinations in the above three papers commencing from 17-3-2003. Subsequently, the writ petition was admitted on 12-8-2003 and the interim order passed on 13-3-2003 was made absolute. The respondent University has now come forward with an application to vacate the interim order and the writ petition itself was finally heard having regard to the urgency in the matter.

In the counter affidavit filed by the Registrar of Osmania University, writ petition is opposed inter alia contending that the petitioner ought to have completed M.C.A. course in a maximum duration of six academic years. The petitioner last appeared in the III Year First semester examinations in August, 2001, and therefore, he is not eligible to continue the course. Reliance is placed on Rule 3 of the Rules and Regulations for the 3 Year M.C.A. course (the Rules, for brevity), which is to the effect that a candidate, for the award of Degree of M.C.A., has to complete the course within six years from the time of admission, failure of which shall result in forfeiting the seat. It is also stated that in response to the petitioner's applications, the University has issued a Memo dated 18-2-2003 informing about the ineligibility of the petitioner on the ground that

he is not eligible to appear in the backlog papers of M.C.A. course, since he has completed stipulated period of six years by 2000-2001.

Learned counsel for the petitioner Sri K.Ramakanth Reddy does not dispute that as per Rule 4 of the Rules, a student who is admitted to First Year M.C.A. course has to complete the three year course and pass all the examinations within a period of six academic years. He, however, submits that in all cases where the student could not pass all examinations within the stipulated period i.e., double the duration of the course period, the University itself issued a letter bearing No.87 M/503/Acad/04, dated 17-2-2004 giving a last chance to such of the students to appear in Annual 2003 Examinations. He would urge that as the petitioner appeared in Annual 2003 examinations by virtue of the interim orders of this Court, the respondent-University may be directed to declare the results of the petitioner.

The learned standing counsel for Osmania University, however, strongly placed reliance on Rule 4 of the Rules and Regulations and contends that the petitioner has to complete the course by academic year 2000-2001 and thereafter he cannot be permitted to appear for the backlog papers as it would be contrary to the Rules. The learned standing counsel, however, does not dispute that the Standing Committee of the Academic Senate has considered the question of time limit to complete the course of study and for clearing the backlog papers beyond the stipulated period and as a last chance, provided certain benefits. He would, however, urge that the petitioner does not come under the purview of the courses in relation to which the Standing Committee of the Academic Senate has relaxed the rules.

There is no denial that the petitioner has not completed the course by academic year 2000-2001 by which time he has completed six years without obtaining the Degree. Therefore, as per the Rules, he cannot be permitted to appear in the backlog papers. The Standing Committee of the Academic Senate, however, in its meetings held on 11-1-2002 and 16-1-2002 decided to give one last chance to clear the backlog papers to such of those students who have completed the course of study in double the duration but still have some backlog papers and accordingly a decision was taken, which was communicated to all the Principals of the Colleges vide letter dated 17-2-2004 making it clear that such of those students, who completed the course in double the duration of the course, will be permitted a last chance in Annual 2003 examinations. The relevant paragraphs from the letter dated 17-2-2004 read as under.

The Standing Committee of the Academic Senate at its meeting held on 11th & 16th January, 2002 has decided to give a one time chance to clear the backlog papers to such of those candidates who have completed the course of study in double the duration but still have some backlog papers by Annual 2003 and further decided that thereafter no candidates will be allowed to clear backlog papers beyond the time limit prescribed.

Since the University has already given a one time chance in Annual 2003 for those, who have completed the course in double the duration but had backlogs to clear, the candidates admitted to different courses prior to the period indicated in the above table are not eligible to appear for any backlog papers in Annual 2004 or after. Further, those who have not completed the course of study/instruction within the double the duration of the course are not eligible to appear for any examination to clear the failed papers. They will forfeit their admission.

The petitioner, in this writ petition, is only seeking the benefit of the decision of the Standing Committee of the Academic Senate, by reasons of which all the students/candidates, who completed the course of study in double the duration but still have some backlog papers, were given a last chance to appear in Annual 2003 Examinations. There is no denial that Annual 2003 M.C.A. examinations commenced on 17-3-2003 and the petitioner appeared for the backlog papers in the said examinations.

Therefore, to the limited extent, the writ petition is allowed directing first respondent to declare the results of the petitioner after getting the papers duly valued. It is made clear that the petitioner shall not be entitled for any more chances to complete the backlog papers, in case he fails to secure the minimum marks required. No order as to costs.

(V.V.S.RAO, J.)

26-10-2004.

Msr.

NOTE : Office to issue copy of this
order within one week.

B/o.

Msr.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the Twenty Sixth Day of October, Two Thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Registrar, Osmania University, Hyderabad - 500 007.
- 2 Manpower Development College, West Marredpally,
Secunderabad - 500 026.
3. 2CD copies